

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5629 of 2021**

Arising Out of PS. Case No.-129 Year-2020 Thana- FULKAHA District- Araria

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VIVEK @ VIVEKANAND YADAV @ VIVEK KUMAR YADAV S/o Billo
Yadav Resident of Village - Manikpur, P.S. - Fulkaha, Dist. - Araria.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr.Tapeshwar Sharma, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 16-04-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail

in connection with Fulkaha P.S. Case No. 129/2020 registered

for the offences punishable under Section 30(a)/41(i)/45 of the

Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that the

informant as per the prosecution story the informant got secret

informant regarding transportation of illicit liquor by the accused

Anmol Yadav. The informant reached at the given place and

claimed that he identified the co-accused Anmol Yadav



and Munna Yadav coming on a motorcycle keeping a bag and on seeing the police they managed to escape by leaving the bag. Thereafter, the informant noticed the petitioner and co-accused Raushan Yadav coming on a motorcycle having a jute bag in between them. It is alleged that on seeing the police they managed to escape by throwing the jute bag. The informant alleged that he recovered 189 liters of illicit liquor.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case, he was not arrested on the spot and nothing incriminating has been recovered from his possession. Learned counsel submits that petitioner is in custody since 16.10.2020.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the petitioner that petitioner is innocent and has been falsely implicated in this case, he was not arrested on the spot and nothing incriminating has been recovered from his possession, the informant is claiming identification of the petitioner though there was no light and in complete darkness, in any case the petitioner has remained in jail in connection with the present



case since 16.10.2020, prior to the present case he had no criminal antecedent and further incarceration of the petitioner is not likely to come in aid of investigation or the prosecution, this court directs release of the petitioner above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge – cum – Special Judge (Excise Act), Araria in connection with Fulkaha P.S. Case No. 129/2020 corresponding to Special Case No. 867/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

